

*Status:* Active

*DOE Lead:* RW-44 (Elissa Turner @ 202-586-1710)

*Start Date:* 3/92

*End Date:*

*Purpose:* To provide tribal pre-notification of DOE spent nuclear fuel shipments consistent with DOE policy and to provide continuous satellite-based tracking and monitoring capability to states and tribes.

*Approach:* Open a dialogue with the NRC to confirm NRC acceptance of DOE policy to notify Indian tribes of DOE spent nuclear fuel shipments, and to provide a continuous satellite-based tracking and monitoring system to states and Indian tribes to track NRC licensed-DOE shipments (including OCRWM shipments). DOE will then draft a letter requesting NRC's acceptance of this DOE policy.

*History:* Regulations provide for the advance notification of states of spent fuel shipments, but do not address notifying tribes. OCRWM has committed to notify tribes consistent with DOE policy. In addition, OCRWM intends to use a continuous satellite-based tracking and monitoring system to track all NWPAs shipments, and to provide the same capability to states and tribes.

*Updates:*

(as of 1/95): OCRWM drafted a letter apprising the NRC Director of the Office of Nuclear Material Safety and Safeguards that the Department intends to notify tribes of NWPAs shipments, and intends to use a satellite-based tracking and monitoring system to track these shipments was dispatched in May 1994. NRC has not replied to the letter.

(as of 7/95): OCRWM does not anticipate any response from NRC to the letter of May '94. OCRWM plans to include two chapters within its *Safeguards Transportation Plan* outlining the use of a continuous satellite-based tracking and monitoring system and pre-notification of tribes within the CRWMS. The *Plan* will be included as part of a license application, most likely for a storage facility, according to 10CFR73.37. NRC approval of the license application, including this plan, will signify approval for the use of a continuous satellite-based tracking and monitoring system and for pre-notification of Indian tribes. OCRWM expects to continue working closely with NRC throughout this approval process to ensure NRC understanding.

Although developing the *Safeguards Transportation Plan* was planned for FY95, budget constraints and shifts in the program caused this activity to be postponed to FY96.

Supporting procedures for the *Safeguards Transportation Plan* will be written 1-2 years prior to planned OCRWM shipments. The procedures will identify specifics on the use of a continuous satellite-based tracking and monitoring system, planned training on the system, and provision of equipment. The procedures will also identify the party in each applicable jurisdiction to be notified before each shipment. These topics may be addressed through Section 180(c) policy implementation before the *Safeguards Transportation Plan* procedures are written.

(as of 1/97): The Draft RFP for Acquisition of Waste Acceptance and Transportation Services requires the RSA contractors to provide advance notification to tribes and includes a capability for a satellite-based tracking and monitoring system. Staff level dialogue between OCRWM and the NRC has not been successful in resolving the issue of regulatory requirements regarding Safeguards Information. This issue has been raised to a management level.

(as of 7/97): At the April 30, 1997 DOE/NRC Managers meeting, OCRWM requested NRC to address the issue of pre-notification of tribes and how this issue might be resolved. NRC has this action.

(as of 1/98): To date, DOE-OCRWM has received no response from NRC.

(as of 6/98): The issue of using TRANSCOM was addressed recently with a memorandum between the Oak Ridge Operations Office (2/12/98) and the NRC (4/9/98), concerning use on NRC-licensed research reactor spent fuel shipments. The NRC allowed the use of TRANSCOM for research reactor shipments, as long as users understood and followed the protection of Safeguards information (10 CFR 73.21 and 73.37[f]).

The NRC staff has recommended tribal pre-notification to the Commission as a needed rulemaking and the issue has been incorporated in the NRC Rulemaking Plan.

(as of 1/99): The status of a potential NRC rulemaking on the issue of tribal pre-notification will be monitored by OCRWM. OCRWM lead will update TEC/WG on this matter at Winter 1999 meeting in Jacksonville, Florida.

(as of 6/99): An Advanced Notice of Proposed Rulemaking (ANPR) has been drafted by the NRC and currently under review by NRC Staff for forwarding to the Commissioners. It is anticipated the announcement may be issued in the next few months.

#### *Milestones:*

- 3/92 Task proposed
- 6/93 Identify applicable NRC regulations
- 6/93 Identify applicable DOE policies
- 7/93 Draft task plan completed
- 7/93 Draft task plan reviewed by TEC Working Group
- Facilitate a meeting between the NRC and DOE to discuss the project
- 5/94 Sent formal letter to the NRC apprising the Director of the Office of Nuclear Material Safety and Safeguards that the Department intends to notify tribes of NWPA shipments, and intends to use a satellite-based tracking and monitoring system to track these shipments.
- 4/97 Requested NRC to address how this issue might be resolved.

#### *Comments:*

None